



WILLIAM T FUJIOKA  
Chief Executive Officer

## County of Los Angeles CHIEF EXECUTIVE OFFICE

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July 8, 2008

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF REGIONAL PLANNING: APPROVE AMENDMENTS TO  
COUNTY CODE TITLE 21 (SUBDIVISIONS) AND TITLE 22 (PLANNING AND  
ZONING) AND THE IMPLEMENTATION PROGRAM  
RELATING TO A HEARING EXAMINER PROCEDURE  
(ALL SUPERVISORIAL DISTRICTS)  
(3 VOTES)**

**SUBJECT**

An ordinance that establishes a hearing examiner procedure, which increases opportunities for public participation, enables efficient public hearings, and improves feedback to project applicants. The hearing examiner would hold an initial public hearing on projects with regional impacts prior to the Regional Planning Commission public hearing.

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve the Implementation Program relating to the establishment of a hearing examiner procedure (Attachment 1)
2. Indicate the intent to adopt the proposed amendments to Titles 21 and 22 of the County Code regarding the hearing examiner procedure (Attachment 2)
3. Instruct County Counsel to prepare a final ordinance for adoption.

*"To Enrich Lives Through Effective And Caring Service"*

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### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On April 3, 2007, your Board approved a motion instructing the Director of Planning and County Counsel to prepare an ordinance amending Title 21 (Subdivision) and Title 22 (Planning and Zoning) that establishes a hearing examiner procedure (Attachment 3) and an implementation program.

The draft ordinance establishes a new procedure to enable a hearing examiner to conduct public hearings and receive testimony in the community. These hearings will be convenient and accessible to the residents and businesses in the unincorporated areas of Los Angeles County.

Subsequent to the local public hearing, the hearing examiner prepares a report that includes recommendations for consideration by the Regional Planning Commission (Commission) at a later hearing. The hearing examiner's report will also include a detailed summary of the community's comments and concerns regarding the proposal, as well as technical issues within the purview of other departments, such as Public Works and Fire. In the majority of instances, it is likely the hearing examiner will be able to address technical issues based on Subdivision Committee reports; the Subdivision Committee is comprised of the Departments of Public Works, Fire, Regional Planning, Public Health, and Parks and Recreation.

If the hearing examiner is unable to respond to a comment or concern at the community public hearing, he or she will work with the case planner, the environmental document consultant, and the respective departments to address the concern. These issues will be addressed in the hearing examiner's report to the Commission. The Commission's public hearing is held in the main hearing room in downtown Los Angeles. The Commission considers the hearing examiner's recommendation and makes a determination.

The hearing examiner procedure will only be applicable to matters in which the Commission has original review and decision-making authority including legislative matters (i.e., zone changes, plan amendments, and ordinance amendments) and major land use projects. Projects below that threshold will continue to be subject to review and disposition through the existing hearing officer process with appeal to the Commission, if needed.

Although the Commission currently hears the above types of cases, it is only regulated by Departmental Policy. Incorporating these thresholds within the Zoning Ordinance will add clarity and transparency to the review authority for projects.

The Department of Regional Planning (Department) formed an internal Task Force to develop an implementation program to ensure a smooth transition to the new Hearing Examiner procedure. The Task Force was made up of senior planners from the public information counter, field offices, case processing sections, and the unincorporated areas liaison. The proposed implementation program prepared by the Task Force includes the hearing examiner procedure, as well as necessary procedural changes to the existing case management process to complement the hearing examiner procedure.

The implementation program includes the gradual shift of the existing hearing officer duties to the hearing examiner. Currently, hearing officer duties are collateral duties performed by staff at the Section Head or Assistant Administrator's level. The new procedure establishes three full-time hearing examiners, which will enable the Department to consolidate case review functions into the hearing examiner positions. With the shift, both hearing examiner and hearing officer duties are assumed by the three new positions.

The case planners within the current planning sections will still play a critical role in preparing the staff reports for the hearing examiners and hearing officers. The procedures will be as follows:

#### Hearing Examiner Process

- Case planner prepares draft staff report.
- Case planner and hearing examiner attend community public hearing; the case planner presents the case to the community.
- Hearing examiner prepares draft findings, conditions, and recommendations based on the case planner's staff report and comments and concerns from the community.
- The final staff report, including the hearing examiner's draft findings, conditions, and recommendations are forwarded to the Commission.
- Hearing examiner presents the case to the Commission at a public hearing.
- Hearing examiner, with the assistance of the case planner, prepares the final findings and conditions.

### Hearing Officer Process

- Case planner prepares draft staff report which includes draft findings and conditions.
- Case planner presents the case at the hearing officer's public hearing.
- Based upon direction from the hearing officer, the case planner prepares the final findings and conditions for the hearing officer's signature.

The new procedure will be phased-in during the first 12 months with a status report and an evaluation completed and submitted to your Board and the Chief Executive Officer at the end of the first year. Depending on the evaluation, additional staff and budget may be recommended as a part of a subsequent proposed budget to ensure such procedure is fully implemented and effective. The evaluation and budget proposals will be for all impacted County departments.

### **Implementation of Strategic Plan Goals**

The Countywide Strategic Plan directs that we provide Service Excellence (Goal 1), Organizational Effectiveness (Goal 3), and Community Services (Goal 6). Approval of the proposed amendments to County Code and implementation of a Hearing Examiner procedure will provide these services in an accurate, efficient, timely, and responsive manner and will support the Department in meeting these goals.

### **FISCAL IMPACT/FINANCING**

Funding in the amount of \$300,000 for the hearing examiner procedure was included in the Department's Adopted Budget in Fiscal Year 2007-2008. Continued funding is included in the Adopted Fiscal Year 2008-2009 Budget.

During the initial phase-in period, it is not anticipated significant additional staffing resources will be needed on an ongoing basis from the Departments of Public Works, Fire, and County Counsel to attend the community public hearings. It is expected staffing expertise from these departments would only be needed to attend the community public hearings perhaps once every two months since most issues should be answered by the Subdivision Committee reports already provided through the existing review process.

However, after the initial phase-in period, a reevaluation will be made as to whether the hearing examiner procedure requires significantly more resources from the Department than is currently anticipated.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

This ordinance is necessary to conduct community-based public hearings on major land use projects and anticipated zoning changes, and amendments to the County General Plan or the Zoning Ordinance within the unincorporated County communities on a regular and consistent basis. The proposed ordinance is exempt from the California Environmental Quality Act based on Section 15061(b) (Chapter 3, Title 14, California Code of Regulations) because there is no possibility that the proposed procedural changes would have a significant effect on the environment (Attachment 2: Draft Ordinance).

### **IMPACTS ON CURRENT SERVICES (OR PROJECTS)**

The proposed hearing examiner procedure will enhance the County's land use entitlement process and respond to the residents' desire for a more responsive government by providing public hearings in the community. The procedure will also add clarity to the land use entitlement process by establishing a threshold to identify the types of cases to be heard by the Commission versus the existing hearing officer. In addition, the procedure will promote efficient Commission public hearings by shifting minor cases currently heard by the Commission to the hearing officer. This will relieve the current work load of the Commission and allow the Commission to focus on issues with countywide impacts, such as General Plan Update, the Zoning Ordinance update, green buildings and affordable housing. Major cases will continue to be decided by the Commission; however, the cases would have had a local public hearing by the hearing examiner and an opportunity for staff to address issues and concerns raised by the community before the Commission public hearing leading to more focused and efficient Commission hearings.

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## **CONCLUSION**

These proposed ordinance amendments establish the hearing examiner procedures as requested by the Board. The Department of Regional Planning has prepared an implementation plan and associated modifications to case processing necessary to enhance the ability of the public to be informed about proposed development projects. Having public hearings within the community will provide a convenient means for the public to participate in the decision making process.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'WTF', followed by a horizontal line and a small flourish.

WILLIAM T FUJIOKA  
Chief Executive Officer

WTF:BWM  
RDH:KMS

Attachments (3)

c: County Counsel

## **IMPLEMENTATION PROGRAM**

The Department of Regional Planning formed an Implementation Task Force to develop ways to implement the new procedure and improve the case management process. The following implementation program reflects the broad consensus of the Task Force. The program will ensure that the transition to the hearing examiner procedure will be smooth and successful; it includes procedural changes within the Department that will enhance and supplement the hearing examiner procedure. The new procedure will be phased in over the course of twelve months. During that time, the Task Force will continue to meet to monitor and evaluate the procedure and make adjustments as needed.

The following implementation plans are in response to the requests in the Board motion:

- I. Staffing and Budget Requirements.** Corresponds to the request that the hearing examiners must be experienced and knowledgeable, and the request that the new procedure should enhance and not interrupt the existing case management responsibilities of the planning staff.
- II. Hearing Examiner Selection and Training.** Corresponds to the request for information on how hearing examiners will be designated.
- III. Case Management.** Corresponds to the request that the intent of the new procedure should be to expedite case processing.

### **I. STAFFING AND BUDGET REQUIREMENTS**

#### **A. Hearing Examiner**

Hearing examiners will be appointed and will possess the level of experience, education and interpersonal skills necessary to successfully interact with the public, conduct a public hearing, and make appropriate recommendations on large, high profile projects to the commission.

The hearing examiner, accompanied by the case planner, will conduct public hearings at convenient times for the community. The hearing examiner public hearings will be noticed in accordance with the public notice requirements in the zoning ordinance. At the hearing, the hearing examiner will allow the applicant to make a presentation, receive testimony from the public, and answer questions. Representatives from other departments may attend the hearings as appropriate to answer questions in their area of expertise.

The hearing examiner will then continue the public hearing to a specific date and time at which the Regional Planning Commission will consider the matter and take action. After the initial public hearing, the hearing examiner will make recommendations. The staff report and the hearing examiner's recommendations will be available for the public prior to the commission's public hearing. At the commission's public hearing, the hearing examiner and the applicant will have an opportunity to make a presentation. This will be followed by public testimony.

## **B. Hearing Officer**

Currently, the Department has five hearing officers who conduct public hearings on minor land use projects and make decisions. Hearing officer duties are collateral duties performed mainly by Assistant Administrators. It is anticipated that the appointment of hearing examiners will enable the Department to shift the collateral hearing officer duties from the Assistant Administrators to the hearing examiners.

The level of experience needed by a hearing examiner to conduct a public hearing on a major land use project and make subsequent recommendations to the commission is comparable to the level of experience needed by a hearing officer to conduct a public hearing on minor land use project and make a decision. Thus, the Department will allow a hearing examiner to gradually assume the duties of a hearing officer.

The assumption of hearing officer duties by the hearing examiner will ensure that the case review duties will be consolidated into one, full-time position. A hearing examiner who can also act as a hearing officer will contribute to a consistent and efficient case review process. In addition, the successful implementation of the hearing examiner procedure may lead to local public hearings by the hearing officers as well. Currently, the hearing officer public hearings are held in the main hearing room in downtown Los Angeles.

## **C. Projected Caseload**

The proposed ordinance identifies what types of cases are to be heard by the hearing officer and what types of cases are to be heard by the hearing examiner and commission.

Using the proposed threshold and the data from fiscal year 2005–2006 as a reference, it is estimated that approximately 100 discretionary cases, or approximately eight cases per month, will be heard by the hearing examiners in the coming year. Based on the projected caseload, four hearing examiners are initially required to implement the new procedure.

In addition to reviewing and conducting public hearings on eight cases per month, the hearing examiners will be expected to perform the duties of a hearing officer. This means conducting public hearings and making decisions on approximately 270 cases per year. This work is currently performed as collateral duties by the Assistant Administrators.

The new procedure will be phased in as a pilot program the first year. During that time, it will be monitored and evaluated by the Implementation Task Force. Any staffing or procedural changes will be made accordingly in order to ensure that the procedure is successfully implemented.



#### **D. Phasing-In of Hearing Examiner Program**

The new procedure will be phased in over the course of the first year as a pilot program to ensure that the existing case management responsibilities of the planning staff is enhanced and not interrupted. First, only the new cases filed after the adopted ordinance is effective will be subject to the new procedure. Second, case distribution will be phased in by the Director to ensure proper workload for the hearing examiners.

- The proposed ordinance allows the Director to set a public hearing before the hearing officer or the hearing examiner and commission for the first 12 months.
- The Department's Implementation Task Force will ensure a smooth transition to the hearing examiner procedure. The Task Force consists of senior staff members from sections that will be affected by the new procedure: Subdivisions, Zoning Permits, Land Development Coordinating Center, Field Offices, and unincorporated services liaison. The Task Force will participate in monitoring and evaluation of the program on a quarterly basis. Procedural refinements will be made when necessary.
- In the Advance Planning Division, Land Divisions and the Special Projects Section, the Supervising Regional Planner will be confirmed as the hearing examiner when a project is ready for a public hearing. However, these sections will not participate in the pilot program of this procedure. These sections will be added after evaluating and monitoring the program for the first year and making any adjustments required to the program.

#### **E. Supplemental Budget**

On May 15, 2007, the Director of Regional Planning provided the Board of Supervisors with Priority Needs for Fiscal Year 2007-2008. The fourth priority on these unmet needs was the hearing examiner request for \$300,000. This amount provides for implementing the hearing examiner procedure this fiscal year. This budget will cover the cost of four hearing examiners. It is anticipated that the cost of the program will not exceed \$300,000 during fiscal year 2007-08 because positions would be phased in over the year rather than filled at once. Staffing needs may change as the caseload changes and as the hearing examiner procedure is fully implemented after the pilot period.

Shifting of the hearing officer collateral duties from the existing Assistant Administrators to the proposed hearing examiners will not have additional fiscal impacts on the 2007-2008 budget.

## **II. HEARING EXAMINER TRAINING**

#### **A. Orientation**

The initial group of planners selected to act as hearing examiners will receive an orientation on the new procedure and the functions and duties of the hearing examiner. The Department will also develop a hearing examiner procedural manual that will provide further guidance and information on the new procedure.

## **B. Training and Succession Planning**

A training program will provide planners of all levels with a guided and structured professional development plan to the hearing examiner position. The training program will provide entry level planners with the knowledge, skills, and experience necessary to qualify them for the hearing examiner position in the future. Planners regardless of their career goal can use this program to further enhance on-the-job training. All planners with the requisite experience and knowledge will have the opportunity to advance to the hearing examiner position whether they follow the recommended training program or not.

- Develop or design an individualized training program that allows a planner to rotate through the various workstations to gain necessary skills, experience and knowledge in the following divisions: Current Planning, Advance Planning, and Land Use Regulations.
- Create and maintain a training tracking system unique to each participating employee.

## **III. ENHANCED CASE MANAGEMENT**

### **A. Pre-application Services**

Enhanced pre-application services will provide applicants with a better understanding of the requirements, processes, timeline, and fees required for their project. This information will empower applicants to prepare materials and maps accurately and completely, and thus, diminish future need for modifications or corrections. The existing pre-application services will be enhanced in two ways: expanding One-Stop and establishing pre-submittal counseling. These services do not replace the formal review of a project, which is conducted once the case is submitted, but will provide advice and recommendations. These supplemental services will also be phased in over the course of twelve months.

- One-Stop, an interdepartmental review that is currently only available for subdivision projects, will be expanded to include conditional use permits, variances, zone changes and other large scale projects that would benefit from interdepartmental review. Participants in One-Stop review include representatives from this Department, the Fire Department, and the Department of Public Works. Currently a fee is assessed for this service. The expansion of One Stop will also be phased in as it requires additional meetings that require additional participation by other departments mentioned above.
- Pre-submittal counseling will allow an applicant to request an additional counseling session with a staff planner before filing an application. This session will provide the applicant with more in-depth information than is currently provided over-the-counter. The applicant will have the opportunity to ask a planner detailed question on the County's land use regulations and processes and their impact on the proposed project. A nominal fee should be assessed for this service to deter cancellations and no-shows.

## **B. Restructure Case Intake**

The case intake process will be modified to eliminate the need for duplicative review. Currently there is duplication in the initial review of case files. The Land Development Coordinating Center (LDCC), the Department's public information counter, performs case intake. The files are then forwarded to the case processing sections (Zoning Permits or Land Divisions) and assigned to a case planner. The case planner also reviews the file for completeness. The case planner review is more detailed and often results in request for revised plans or additional information. Having the case planners perform the case intake would eliminate duplication and expedite the case processing procedure. The Task Force recommends restructuring case intake as follows:

- The applicant calls and schedules an appointment with the lead section.
- The case planner (Zoning Permits or Land Division) meets with the applicant and accepts the application if it is complete.
- Case intake planner calculates application fees and LDCC acts as centralized cashier and generates receipt.

ORDINANCE NO. Draft

An Ordinance amending Title 21-Subdivisions and Title 22-Planning and Zoning of the Los Angeles County Code, establishing the Hearing Examiner procedure.

The Board of Supervisors of the County of Los Angeles ordains as follows:

...

**SECTION 1.** Section 21.16.070 is hereby amended to reference Title 22 on “conduct of hearings” as follows:

**21.16.060 Public hearings.**

Prior to the approval by the advisory agency of any tentative map, including a tentative minor land division map, submitted pursuant to this Title 21, a public hearing shall be held before the advisory agency. The public hearing shall be conducted as provided in Section 22.60.171, and notice thereof shall be provided in the manner prescribed by Section 21.16.070 of this Title 21. Any interested person may appear at such a hearing and shall be heard.

...

**SECTION 2.** Section 22.08.080 is hereby amended to add the following definition of Hearing Examiner in alphabetical order to read as follows:

**22.08.080 H.**

...

“Hearing examiner” means a person who is an employee of or under contract to the Department of Regional Planning appointed by the director and confirmed by the Board of Supervisors to perform the duties as designated by this Title 22 relating to the conducting of public hearings, receiving public testimony and making recommendations to the commission.

**SECTION 3.** Chapter 22.16.080 is hereby amended to allow the director to initiate changes and make recommendations to the commission on zone changes and amendments as follows:

**22.16.080 Initiation of hearings--Conditions.**

Hearings on zone changes or amendments may be initiated:

A. If the board of supervisors instructs the commission or the director to set the matter for a hearing, report and recommendation; or

B. Upon the initiative of the commission or the director; or

C. In the case of a zone change, upon the filing of a petition as provided in Sections 22.16.090, 22.16.100, 22.16.110 and 22.16.120 of this Part 2.

...

**SECTION 4.** Section 22.16.250 is hereby amended to allow the director to initiate hearings as follows:

**22.16.250 Initiation of hearings.**

Hearings on a development agreement may be initiated:

A. If the board of supervisors instructs the commission or the director to set the matter for a hearing, report and recommendation; or

B. Upon the initiative of the commission or the director; or

C. Upon the filing of an application as provided in Sections 22.16.260, 22.16.270, 22.16.280 and 22.16.290 of this part.

...

**SECTION 5.** Sections 22.56.070, 22.56.320, 22.56.490, 22.56.610, 22.56.740, 22.56.850, 22.56.1330, 22.56.2160, 22.56.2840 are hereby amended to allow for application of public hearings as follows:

1           **22.56.070 Application--Public hearing required--Exception.**

2           In all cases where an application for a conditional use permit is filed, except  
3 where the hearing officer grants the permit pursuant to Section 22.56.080 or the director  
4 grants the permit pursuant to Section 22.56.085, ~~the hearing officer shall hold a public~~  
5 ~~hearing unless the commission determines to and itself holds a public hearing. In either~~  
6 ~~case,~~ the public hearing shall be held pursuant to the procedure provided in Part 4 of  
7 Chapter 22.60.

8           ...

9           **22.56.320 Application--Public hearing required.**

10          ~~In all cases where an application is filed for a variance, the zoning board shall~~  
11 ~~hold a public hearing unless the hearing officer determines to and itself holds a public~~  
12 ~~hearing. In either case, the~~ The public hearing shall be held pursuant to the procedure  
13 provided by Part 4 of Chapter 22.60.

14          ...

15          **22.56.480 Application--Approval or denial--Findings.**

16          A. The director shall approve an application for an animal permit where no  
17 protest to the granting of such permit is received within the specified protest period.

18          B.       The director shall deny an application for an animal permit in all cases  
19 where:

20                1.       The report of the department of animal care and control or health  
21 services indicates that such animals may not reasonably be maintained as specified in  
22 the application; or

23                2.       Two protests are indicated. Protests received from both the owner  
24 and the occupant of the same property shall be considered to be one protest for  
25 purposes of this section.

1 C. In all cases where the director denies an application, he shall so inform  
2 the applicant, in writing, and in such notice shall also inform him that if within 30 days  
3 after receipt of such notice he files such additional information as the director may  
4 require and pays an additional fee, the amount of which shall be stated in the notice, a  
5 public hearing will be scheduled. ~~relative to such matter before the commission.~~ Such  
6 additional fee shall be the difference between the fee paid and the fee for public hearing  
7 as specified in Section 22.60.100.

8  
9 **22.56.490 Application--Public hearing. (animal permit)**

10 In all cases where a public hearing is requested, the ~~commission shall hold a~~  
11 public hearing shall be held pursuant to the procedure provided in Part 4 of Chapter  
12 22.60.

13 ...

14 **22.56.610 Application--Public hearings required.**

15 ~~The hearing officer shall hold a public hearing on an application for a cemetery~~  
16 ~~permit.~~ The public hearing shall be held pursuant to the procedure provided in Part 4 of  
17 Chapter 22.60.

18 ...

19 **22.56.740 Application--Public hearing required.**

20 Unless an application is approved pursuant to Section 22.56.730, the hearing  
21 ~~officer shall hold a public hearing unless the commission determines to and itself holds~~  
22 ~~a public hearing.~~ The public hearing shall be held pursuant to the procedure provided in  
23 Part 4 of Chapter 22.60.

24 ...

25 **22.56.850 Application--Public hearing required.**

1       ~~In all cases where an application for a mobilehome permit is filed, the hearing~~  
2 ~~officer shall hold a public hearing, unless the commission determines to and itself holds~~  
3 ~~a public hearing. In either case, the~~ The public hearing shall be held pursuant to the  
4 procedure provided in Part 4 of Chapter 22.60.

5       ...

6       **22.56.1330 Application or plan--Public hearing required.**

7       In all cases where an application for a surface mining permit and/or reclamation  
8 plan is filed, ~~the hearing officer shall hold a public hearing unless the commission~~  
9 ~~determines to and itself holds a public hearing. In either case, the~~ public hearing shall  
10 be held pursuant to the procedure provided in Part 4 of Chapter 22.60.

11       ...

12       **22.56.2160 Application--Public hearing required when.**

13       Where no concurrent consideration is conducted by the hearing officer or the  
14 commission pursuant to Section 22.56.2150, ~~the director shall conduct~~ a public hearing  
15 shall be held pursuant to the procedure provided in Part 4 of Chapter 22.60 subject to  
16 the notice requirements of subsection B of Section 22.56.2130; provided, however, that  
17 no hearing shall be required for a filing in conjunction with the use of a single-family  
18 residence when publishing is not required by said subsection C of Section 22.56.2130.

19       ...

20       **22.56.2840 Public hearing and notice required—Discretionary review.**

21       In all cases where an application for a discretionary housing permit is filed, the  
22 ~~commission shall hold a public hearing. The~~ public hearing shall be held pursuant to the  
23 procedure provided in Part 4 of Chapter 22.60.

24       ...



1       **SECTION 6.** Chapter 22.60 ADMINISTRATION is hereby amended to add  
2 hearing examiner as follows:

3       **Chapter 22.60 ADMINISTRATION**

4       **Part 1 Hearing Officer and Hearing Examiner**

5       ...

6       **SECTION 7.** Section 22.60.020 is hereby amended to allow the director to  
7 determine duties of the hearing officer as follows:

8       **22.60.020     Duties of hearing officer.**

9       A.     The hearing officer shall preside over the public hearing and hear  
10 testimony for and against an application for a land use permit or variance pursuant to  
11 the procedure provided in Part 4 of Chapter 22.60. ~~unless the commission determines~~  
12 ~~to and itself holds a public hearing.~~

13       B.     The hearing officer, within 10 working days of the conclusion of a public  
14 hearing on a use permit or variance, shall:

- 15             1.     Make findings as required by this Title 22.
- 16             2.     Based on the findings, approve, conditionally approve or  
17 disapprove the application.
- 18             3.     Mail notice of the decision as required by this Title 22.

19       ...

20       **SECTION 8.** Section 22.60.040 is hereby added to provide for the authority of the  
21 hearing examiner as follows:

22       **22.60.040     Authority of the hearing examiner.** The hearing examiner  
23 conducts public hearings on land use permits, variances, zone changes, ordinance  
24 amendments, land divisions and plan amendments subject to the general purposes and  
25 provisions of this Title 22.

1       **SECTION 9.** Section 22.60.050 is hereby added to determine the duties of the  
2 hearing examiner as follows:

3       **22.60.050   Duties of hearing examiner.**

4       A.     The hearing examiner conducts public hearings on land use permits,  
5 variances, zone changes, amendments to Title 22, land divisions, plan amendments  
6 and other planning matters pursuant to the procedure provided in Part 4 of Chapter  
7 22.60.

8       B.     Prior to the commission 's public hearing, the hearing examiner shall:

9           1.     Ensure that the report to the commission includes an analysis of  
10 the project, proposed findings and conditions, recommendations, and other pertinent  
11 materials to be submitted to the commission.

12           2.     Mail notice as required by this Title 22.

13       **SECTION 10.** Section 22.60.090 is hereby amended to add director to filing a  
14 withdraw request as follows:

15       **22.60.090   Withdrawal of application or petition permitted when.**

16       An applicant or petitioner for any permit, variance, nonconforming use or structure  
17 review, or zone change provided for in this Title 22 may withdraw his application at any  
18 time before hearing or before ex parte action by the hearing officer by filing with the  
19 director ~~hearing officer~~ a request in writing signed by all persons who signed the original  
20 application or petition, or their successors in interest.

21       ...

22       **SECTION 11.** Section 22.60.170 is hereby amended to allow for the director to  
23 initiate hearings as follows:

24       **22.60.170   Initiation of hearings.** Hearings on permits, variances or  
25 nonconforming use or structure review may be initiated:

1           A.     If the board of supervisors instructs the director, the hearing officer or  
2 commission, to set the matter for a public hearing in the case of a use permit, variance,  
3 or nonconforming use or structure review; or

4           B.     Upon the initiative of the commission or the director in the case of a use  
5 permit, variance, or nonconforming use or structure review; or

6           C.     Upon the filing of an application.

7           ...

8           **SECTION 12.** Section 22.60.171 is hereby added to determine the conduct of  
9 hearings as follows:

10           **22.60.171    Conduct of hearings.** When a verified application is filed or a  
11 hearing is initiated for a permit, variance, zone change or amendment, land division, or  
12 plan amendment and a hearing is required by this Title 22, the hearing officer, hearing  
13 examiner or commission shall hold such hearing in accordance with the procedures  
14 listed below.

15           A.     The director shall set a public hearing before the hearing officer or  
16 commission for the first 12 months of the date of the ordinance establishing this section.  
17 For those cases set before the commission, the director shall determine which cases  
18 shall first be heard by the hearing examiner.

19           B.     Following the initial 12 month period, the director shall set public hearings  
20 as follows:

21               1.     The hearing officer shall conduct public hearings on the following:

- 22                   •   Conditional use permit if the project creates or results in one to  
23                       50,000 gross square feet of nonresidential floor area, or if the  
24                       project creates or results in two to 50 lots or dwelling units.
- 25                   •   Nonconforming Review.

- Oak Tree Permit, for the removal of two to five oak trees.
- Parking Permit.
- Variance.
- CSD modification, if hearing is required.
- Animal Permit, when hearing is requested pursuant to Sections 22.56.480 and 22.56.490.
- Minor conditional use permit, when hearing is requested pursuant to Section 22.56.085.
- Parking deviation, when hearing is requested pursuant to Section 22.56.1762.
- Other land uses, except for those listed in subsection B.2.

2. The commission shall conduct public hearings on the following:

- Conditional use permit if the project creates or results in more than 50,000 gross square feet of nonresidential floor area, or if the project creates or results in more than 50 lots or dwelling units.
- Conditional use permit for a landfill, medical marijuana dispensary, SEA, hillside management, or residential/transitional care.
- Aviation permit (ALUC).
- Cemetery permit.
- Explosive permit.
- Housing permit (off menu).
- Coastal development permit.
- Oak tree permit, for removal of one heritage oak tree or more than five oak trees.
- Revocation.

- Variance from View Protection (Section 22.46.520) or Significant Ridgeline Protection (Section 22.44.133 D.5).
- Surface Mining Permit.
- Legislative action, e.g. ordinance amendment, zone change, plan amendment, and specific plan.

3. If a project has concurrent permits and if any one of those permits requires the commission's review per B.2, then the whole project shall be considered by the commission.

4. The hearing examiner shall hold a public hearing on all projects subject to the commission's review except on appeals and calls for review on projects decided by the hearing officer.

...

**SECTION 13.** Section 22.60.175 is amended to provide for the director's actions as follows:

**22.60.175 Posting.**

Not less than 30 days prior to a public hearing scheduled pursuant to this Title 22, the affected applicant shall post sign(s) according to the following specifications:

...

J. Applicability. These provisions shall not apply to public hearings on matters initiated by the Board of Supervisors or the Regional Planning Commission or the director; however, the director may, in his discretion, cause signs for such public hearings to be posted at locations he deems appropriate.

...

**SECTION 14.** Section 22.60.176 is hereby deleted.

~~22.60.176 Conduct of hearings--Hearing officer duty.~~

1       ~~When a verified application is filed for a permit or variance and a hearing is~~  
2 ~~required by this Title 22, the hearing officer shall hold such hearing if the commission~~  
3 ~~does not itself hold the hearing.~~

4       ...

5       **SECTION 15.** Section 22.60.190 is amended to add hearing examiner to the  
6 notification of action taken as follows:

7       **22.60.190     Notification of action taken.**

8       The hearing officer, commission or board of supervisors shall serve notice of its action  
9 upon:

10       A.     The applicant for a permit, variance, nonconforming use or structure  
11 review, development agreement or zone change, or the person owning and/or operating  
12 a use for which the revocation of a permit, variance or nonconforming use or structure is  
13 under consideration as required by law for the service of summons or by registered or  
14 certified mail, postage prepaid, return receipt requested; and

15       B.     The following persons by first class mail, postage prepaid:

16             1.     The first three protestants testifying or speaking at the public  
17 hearing, except at a hearing for the revocation or modification of any permit, variance or  
18 nonconforming use or structure;

19             2.     The first three persons testifying or speaking at a public hearing in  
20 favor of the revocation or modification of any permit, variance or nonconforming use or  
21 structure;

22             3.     Any other persons testifying or speaking at a public hearing that  
23 request such notification from the chairman at the hearing.

1        C.        The hearing examiner shall mail a notice of the commission public hearing  
2 date, a synopsis of the hearing examiner's public hearing and recommendation to the  
3 commission to persons in subsections B.1, B.2 and B.3.

4        ...

5        **SECTION 16.** Section 22.60.240 is hereby amended to add hearing examiner  
6 hearings to notice and public hearing for appeals and calls for review as follows:

7        **22.60.240        Procedures for appeals and calls for review.**

8        A.        Hearing Dates. The appellate body may delegate the setting of hearing  
9 dates to its secretary or clerk.

10        B.        Notice and Public Hearing. An appellate or review hearing shall be a  
11 public hearing if the decision being appealed or reviewed required a public hearing. A  
12 public hearing on appeal is not subject to the hearing examiner procedure. The appellate  
13 body shall consider the matter directly at its public hearing. Notice of public hearings  
14 shall be given in the manner required for the decision being appealed or reviewed.

15        ...

16        **SECTION 17.** Section 22.60.260 is amended to include the hearing examiner  
17 within the effective date as follows:

18        **22.60.260        Effective dates.** Unless otherwise specified in Chapter 22.56, the  
19 following effective dates shall apply to all land use permits and variances:

20        A.        The decision of the hearing officer shall become effective 15 days after  
21 receipt of the notice of decision by the applicant, unless appealed to or called up for  
22 review by the commission prior to that date.

23        B.        The decision of the commission, where it initially holds the public hearing,  
24 inclusive of the hearing examiner hearing, shall become effective 15 days after receipt

1 of notice of decision by the applicant, unless appealed to or called up for review by the  
2 board of supervisors prior to that date.

3 C. The decision by the commission regarding an appeal or review shall  
4 become effective eight days after receipt of the notice of decision by the applicant,  
5 unless called up for review by or appealed to the board of supervisors prior to that date.

6 D. Where an appeal to or call for review by the board of supervisors is filed  
7 relating to any land use permit or variance, the date of decision by the board of  
8 supervisors of such appeal or review shall be deemed the date of grant in determining  
9 an expiration date.

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12 HE Ordinance 10-01-07  
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## HEARING EXAMINER EXECUTIVE SUMMARY

On April 3, 2007, the Board of Supervisors approved a motion instructing the Director of Planning and County Counsel to report to the Board within 120 days with the following:

1. Prepare an ordinance that establishes a hearing examiner procedure that would allow a staff-level planner to conduct public hearings on major projects in the community where a proposed project is located.
2. Prepare an implementation program that demonstrates:
  - How hearing examiners will be designated.
  - How cases will be selected.
  - Mechanisms to ensure that the existing case management responsibilities of the planning staff is enhanced and not interrupted.
  - Intent to expedite the processing of land use applications.

The Department of Regional Planning developed a draft ordinance establishing the hearing examiner procedure and an implementation program in accordance with this directive.

The purpose of the procedure is to make public hearings convenient and accessible to the residents and businesses in the unincorporated areas of Los Angeles County and thus increase public participation on the one hand and promote efficient Commission public hearings on the other hand. More broadly, the hearing examiner procedure responds to the need for accessible and responsive government as follows:

- **Geography.** The new procedure brings public hearings to the nearly one million people living in the unincorporated areas, which constitute nearly two-thirds of the total land area of Los Angeles County.
- **Public hearings.** The public hearings will be held throughout the County, not just in downtown Los Angeles.
- **Public participation.** The public hearings will be in the community and in the evenings making it easier and more convenient for people to attend them.
- **Case Processing.** Case processing will be improved as applicants will have added pre-application opportunities to receive feedback on their projects before filing an application. In addition, case intake will be reassigned to the lead section (Subdivisions or Zoning Permits). These procedures will help applicants file more complete and accurate applications.
- **Transparency.** Objective criteria will determine which projects the hearing examiner will hear and help clarify the entitlement process.

### **Draft Ordinance on the Hearing Examiner Procedure**

The proposed ordinance amends Title 21-Subdivisions and Title 22-Planning and Zoning Code to allow a staff-level planner (hearing examiner) to conduct public hearings in the community prior to the Regional Planning Commission's (Commission) public hearing. This is a two-step public hearing procedure similar to the public hearing procedure at the City of Los Angeles. The new procedure will only be applicable to major projects. The ordinance establishes a threshold based on objective criteria (scale, scope, intensity of land use) to determine what is a major project. The hearing examiner is not a decision maker, but holds a public hearing in the community to receive testimony and makes recommendations to the Commission, who makes

the decision. The hearing examiner procedure is summarized as follows (see attached flowchart):

- Case planner takes in the case and processes it, which includes site inspection, determining compliance with the General Plan and the Zoning Ordinance, preparing the factual data sheet and public hearing notice, and writing the staff report.
- When the project is ready for a public hearing, the hearing examiner conducts a public hearing, accompanied by the case planner, in the community to receive public testimony.
- After the public hearing, the hearing examiner prepares recommendations to the Commission based on the staff report prepared by the case planner, public comments and any additional research.
- The Commission holds a public hearing to consider the hearing examiner's recommendations and additional public testimony before making a decision.

### **Implementation Program**

The Department formed an Implementation Task Force to develop an implementation program for the hearing examiner that will enhance and not interrupt the existing case management process. The Task Force is made up of senior planners from the public information counter, field offices, case processing sections, land divisions, as well as the unincorporated areas liaison. The Task Force developed the implementation program to ensure that the whole case management process is as efficient and expeditious as it can be. The new procedure will be phased in over the course of twelve months as a pilot program. During that time, the Task Force will continue to meet to monitor and evaluate the procedure and make minor adjustments.

**Staffing and Budget.** Hearing examiners will have the skills, knowledge, and experience necessary to conduct public hearings. Based on statistical analysis of past projects, approximately 100 discretionary cases a year will be subject to the hearing examiner procedure and Commission review. Four hearing examiners can be expected to conduct approximately eight local public hearings a month. The \$300,000 allocated for the hearing examiner procedure in Fiscal Year 2007-08 Budget will cover the cost of the new procedure for this fiscal year.

In addition, the hearing examiners will be expected to assume hearing officer duties which are currently collateral duties performed mainly by the Assistant Administrators. This will consolidate case review duties into one position and ensure a consistent land use decision-making process.

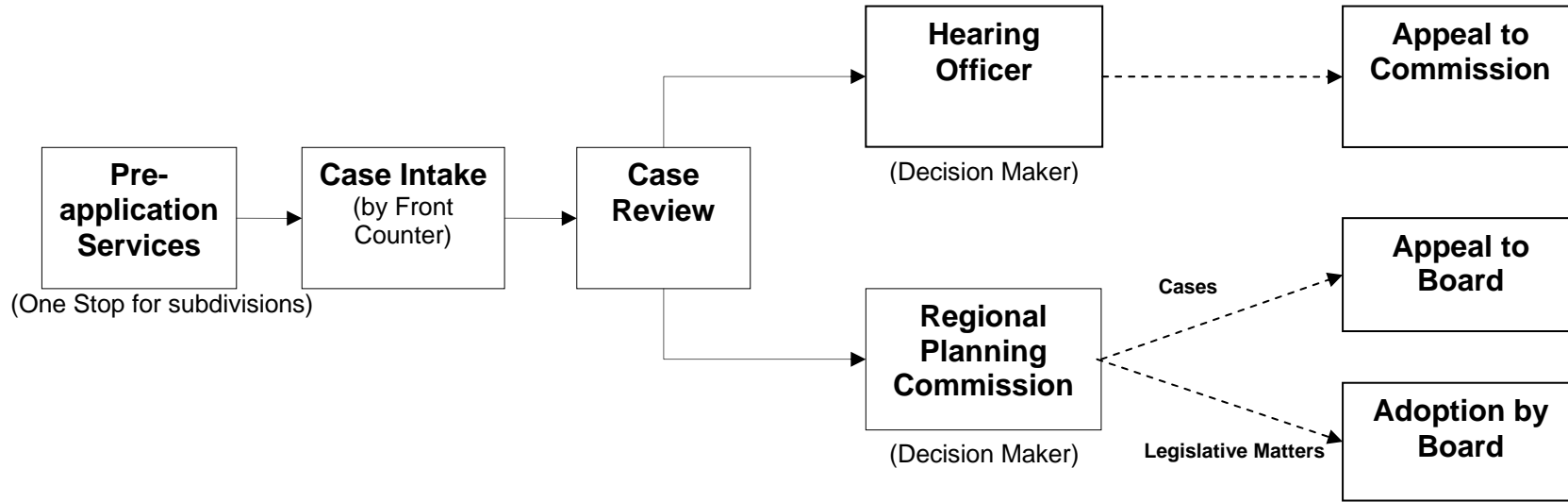
**Supplemental Training.** The initial group of hearing examiners will receive supplemental training on the hearing examiner procedure and on the duties and functions of a hearing examiner. The Department will also support additional training to ensure that additional planners gain the experience, knowledge, and skills necessary to serve as hearing examiners in the future.

**Pre-application Counseling.** The Department will provide expanded counseling services to applicants before an application is filed. This will help applicants file complete and accurate applications and reduce case processing time by reducing the need for applicants to submit additional information.

**Case Intake.** The filing and acceptance of an application for review will be restructured to allow case processing planners to take in the cases. This will eliminate duplicative review and increase efficiency. Currently, an application is reviewed twice, once at the public information counter (case intake), and once again by the case-processing planner.

## CASE MANAGEMENT PROCESS FLOWCHART

### Current Case Management Process



### Proposed Case Management Process

